



CITY OF MORGAN HILL

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

FACSIMILE TRANSMISSION COVER SHEET

Sent from FAX (408) 779-1592

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DATE: July 30, 2001

CALIF ENERGY COMMISSION

TO: California Energy Commission
Office of the Public Advisor
Fax Number: 916.654.4493

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RECEIVED IN DOCKETS

FROM: J. Edward Tewes
City Manager
CITY OF MORGAN HILL, CALIFORNIA

COMMENTS: My letter of today's date re: Agenda Item #16 - Emergency Revisions to Licensing Regulations.

This transmission consists of 4 page(s) including this sheet. If there are any problems with transmission, please call (408) 779-7271. Thank you.

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**CITY OF MORGAN HILL**

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037-4128

FACSIMILE TRANSMISSION

01-SIT-1

July 30, 2001

Chairman William Keese
Commissioner Michael Moore
Commissioner Robert Laurie
Commissioner Robert Pernell
Commissioner Arthur Rosenfeld
California Energy Commission
1516 9th Street
Sacramento, CA 95814

RE: Agenda Item #16 - Emergency Revisions to Licensing Regulations

Dear Chairman Keese and Honorable Commissioners:

The City of Morgan Hill urges you to NOT adopt the proposed Emergency Revisions to Licensing Requirements, or alternatively to revise them significantly to address the concerns previously identified by Mayor Dennis Kennedy (see enclosed letter).

To meet the public interest, the Licensing process must give both proponents and opponents a fair opportunity to present information and challenge the claims of others.

While there may be a need to streamline the process in order to move it expeditiously, there should be no shortcuts.

At the very least, the Commission should give general purpose local governments special standing to participate meaningfully in the evidentiary phase of the proceedings.

Sincerely,

J. Edward Tewes
City Manager

Enclosure



CITY OF MORGAN HILL

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

VIA FACSIMILE

March 6, 2001

Chairman William Keese
Commissioner Michael Moore
Commissioner Robert Laurie
Commissioner Robert Pernell
Commissioner Arthur Rosenfeld
California Energy Commission
1516 9th Street
Sacramento, CA 95814

RE: Agenda Item #16 - Emergency Revisions to Licensing Regulations

Dear Chairman Keese and Honorable Commissioners:

This letter is sent in protest of the emergency revisions to the licensing regulations proposed by Commissioner Laurie, which the Commission is slated to consider at your meeting of March 7, 2001.

Public participation by local agencies is critical to a full and complete examination of the impacts associated with the siting of a particular power plant. Even a cursory glance at the topics examined by Commission staff during the licensing process reveals that a majority of topics considered are of local (and in most cases, only local) concern. These include air quality, biological resources, cultural resources, hazardous materials, land use, noise, public health, socioeconomic, traffic and transportation, transmission line safety, visual resources, waste management, and water and soils. There can be no question regarding the potential severe physical and social impacts of a power plant upon local jurisdictions.

Local agencies are also in a unique position to provide insight into licensing issues which are focused upon a specific locality. For example, local agencies have often already studied and considered local population growth, climactic conditions, traffic patterns, and other matters which can be of value to a licensing determination. It would be a wasteful abrogation of resources to ignore the research and opinions of local agencies on these topics. Indeed, it would also be presumptuous of the Commission to deny local residents the right to voice their opinions and present their factual research on these topics when local residents may be much more informed than the CEC staff or Applicant of the factual issues pertinent to such topics.

Chairman Keese and Honorable Commissioners
March 6, 2001
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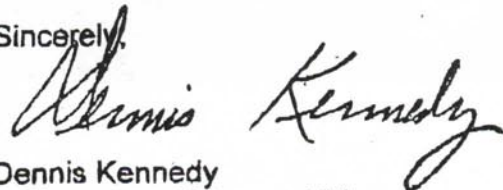
In addition, the Commission must consider the rights of local agencies and residents to be heard in matters which may directly affect their health, safety and welfare, which rights arise under the California Constitution and a long history of state jurisprudence. Because of the "emergency" nature of these regulations, the City has not had the time to research such legal issues in depth. Before adopting regulations which effectuate such sweeping changes, it would be prudent of the Commission to solicit sound legal advice on whether local agencies should have the right to intervene and present testimony, not only from Commission staff but from the League of California Cities.

The City of Morgan Hill is currently an intervenor in the Metcalf siting proceedings. As part of our involvement in this process, we have sponsored the testimony of meteorological experts regarding the impacts of the Metcalf plant on our regional air quality. We believe that our experts have presented arguments which are directly relevant to the licensing issues for the Metcalf site. If the proposed amendments were in place at the time of the Metcalf hearings, we believe that it would have been much more difficult to have the City's experts heard on this issue of critical importance to Morgan Hill residents.

Several of the proposed changes are particularly troubling to the City, including unlimited *ex parte* contacts, striking the requirement that oral testimony be sworn, and limiting intervenors' rights to meaningfully participate in the process by making evidentiary matters a discretionary act on the part of the Presiding Member. All of these changes signal a diminution of the public nature of the CEC licensing process, and restrict the due process and participatory interests of the residents and elected representatives of local agencies. When the Commission is considering issues which are critical to local residents, it should be a paramount concern that those local voices are heard (and indeed, required to be heard), as part of the licensing process.

While we appreciate the legislative and practical need to swiftly address siting applications to ensure that California's energy crisis is abated, we strongly encourage the Commission to uphold traditional rights of local agencies to have a voice in how their physical and social environments are shaped. Please continue to allow local agencies the right to meaningfully participate in the CEC licensing process by not amending Sections 1212, 1710, and 1712. In the alternative, we request that local agencies which are directly affected by licensing issues be allowed to participate as intervenors under the current language found in Sections 1212 and 1712.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dennis Kennedy", written in a cursive style.

Dennis Kennedy
Mayor, City of Morgan Hill

c: Council members